**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**CRIMINAL APPELLATE JURISDICTION.**

**CRIMINAL APPEAL NO. 584 OF 2005**

Silvhester Ekbonem Oli....Appellant.

versus

The State of Maharashtra..... Respondent.

.....

Shri Jagdish Shetty for the appellant.
Mr. V.B. Konde Deshmukh APP for State.

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**CORAM ; A.M. KHANWILKJAR, J.**

**DATED; DECEMBER 20, 2005**

**P.C.**

1. Heard counsel for the parties. Perused the evidence.

2. By this appeal the appellant prays that set off be provided to the appellant in relation to the period of judicial custody since 6-4-2004. This submission of the appellant clearly overlooks the order passed by the lower court in clause 3 of the order. Lower court has directed to make provision of set off relating to the period of detention undergone by the accused against the sentence of imprisonment. Hence this prayer is devoid of merit.

3. It is then argued on behalf of the appellant that the appellant has already undergone sentence for a period of about one year and 9 months, in as much as the appellant is in custody since 6-4-2004. On that basis it is argued that the appellant be set at liberty on the basis of sentence already undergone by the appellant. This submission is opposed by the learned A.P.P. He points out that the appellant has been named as accused in another offence punishable under section 302 of IPC. However, that case has ended in acquittal as neither the complainant nor the witnesses became available to depose before the court. In my opinion, even the second submission will have to be rejected. This is so because section 14 of the Act provides for punishment of imprisonment for a term which may extend to 5 years and fine. The court below in the present case has restricted the sentence to only two years S.I. In otherwords, the trial court has already taken lenient view of the matter, for which reason no further indulgence be shown to the appellant. There are no extenuating circumstances, which would pursuade me to reduce the period of sentence to one already undergone instead of two years S.I. awarded by the court below. Hence this appeal should fail and the same is dismissed as no other point is argued before me. Ordered accordingly.

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